

### **REMARKS**

This is in response to the Office Action dated January 20, 2004.

The Examiner rejected claims 1-54 under 35 U.S.C. § 112 (page 2-3 of the Office Action). Each of the claims remaining in the case have been amended to include the stringed instrument. It is believed that all claims are now proper under 35 U.S.C. § 112.

The Examiner rejected claims 1-54 as anticipated by or in the alternative under 35 U.S.C. § 103 as obvious over Flynn or Walther or Kovins or Katz. In that rejection the Examiner comments that all of the claims require a protective case having soft padding or cushioning to protect a stringed instrument. The Examiner comments that all of the applied references disclose this structure. The Examiner reasons that since the cases of the applied references have all of the structural elements of the claims, they are presumed to be inherently capable of all of the claimed functions such as the statements of intended use noted above in the Office Action.

The Walther reference simply provides an outer enclosure for carrying a case that houses an instrument. For example, column 1, lines 5-9 of Walther discuss an enclosure for a cello that is positioned within its conventional hard case. No void space is provided at the central part of the front or rear panel of the instrument as claimed.

Katz does not suggest the structure now claimed. Applicant teaches a peripheral engagement using multiple surfaces of the case to engage that portion of the stringed instrument that is strongest, namely the periphery of the base. In Katz a foam member 54 directly engages the weak bridge and central part of the sound board (see figure 1 of Katz). Element 52 engages the other panel of the base. Katz teaches away from the present invention by not engaging the periphery of the sound board with any material at all.

Kovins shows an inflatable member that engages both the sound board panel and back panel, applying dangerous pressure to both. With applicant's invention, a void space is provided as claimed that prevents such pressure to be applied at the central part of the sound board or the back panel.

Flynn has padding that applies pressure to the entire front surface of the instrument including the sound board, the bridge, the strings and thus does not provide a void space as claimed for

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protecting the central part of at least one of the front or rear panels of the instrument.

Applicant respectfully submits that the application is in condition for allowance. A Notice of Allowance is hereby respectfully requested.


Should the Examiner feel that a telephone conference would advance the prosecution of this application, he is encouraged to contact the undersigned at the telephone number listed below.

Applicant petitions the Commissioner for a one month extension of time. The \$55 fee is included in the enclosed check for \$591, which also includes the filing fee and excess claims fees.

Applicant respectfully petitions the Commissioner for any extension of time necessary to render this paper timely.

Please charge any additional fees due or credit any overpayment to Deposit Account No. 50-0694.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 20, 2004.



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S M Nehrbass

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